IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl.Misc.No.29628-M of 2006

Date of Decision: 17.4.2007

Swaranjit Kaur and another .....Petitioners

Versus

State of Punjab and another .....Respondents

CORAM:- HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.HS Gill, Senior Advocate with
Mr.Vivek Goel, Advocate
for the petitioners.

Mr.BS Sra, D.A.G. Punjab.

Mr.HR Nohria, Advocate for respondent No.2.

S.D.ANAND, J.

FIR No.159 dated 10.6.2005, under Sections 406/498-A of the Indian Penal Code was lodged by respondent No.2 – Jaspreet Kaur Brar with the Police of Moga. In the course thereof, she made a grievance that she had been subjected to dowry-related torture by her husband and the present petitioners Swarnjit Kaur and Jabbar Singh, who are her parents-in-law. On investigation, the petitioners and their co-accused were challaned by the police and the matter is pending consideration in a Competent Court of law which (Court) has framed charges against them.

The petitioners (i.e. parents-in-law of respondent No.2) have filed the present petition under Section 482 of the Code of Criminal Procedure for quashing of the report dated 20.1.2006, under Section 173 of

the Code of Criminal Procedure (Annexure P1) in case FIR No.159 dated 10.6.2005.

Mr.HS Gill, learned Senior Advocate, argues that the entire presentation made by respondent No.2 is false and the proceedings against the petitioners are nothing but a blatant abuse of the process of Court. In the context, the learned counsel argues that respondent No.2 and also the petitioners have been most of the time staying abroad and visits of all of them to India have been averred in such a manner that these fit in with the scheme of things envisioned by respondent No.2 for purposes of making dowry-related torture allegations. It is argued that the presentation made by respondent No.2 would not be able to stand the test of cross-examination.

Mr.HR Nohria, learned counsel for respondent No.2, argues that the alleged feebleness of the evidence produced by the prosecution cannot be made a ground for quashing of the FIR, particularly when the petitioners have not challenged the order charge-sheeting them.

In response to the plea above quoted, the learned counsel for the petitioners relied upon Lakhwinder Singh Versus State of Punjab etc., 2000(3) All India Criminal Law Reporter, 742 to buttress the plea that the framing of charges is no bar to the entertainment of a petition under Section 482 of the Code of Criminal Procedure.

In so far as the last indicated plea on behalf of the petitioners is concerned, there can be no dispute about it. Apart from the above quoted judicial pronouncement, there is plethora of law in support of the view that the mere framing of charges is not an impediment to the entertainment of a petition under Section 482 of the Code of Criminal Procedure. That fact, notwithstanding, the riddle does not get solved for the petitioners. It is

only a prima facie case which has to be found to exist before a Court of law proceeds to frame charges against an accused. The Court framing the charges is neither required nor competent to analyse the strength or otherwise of the evidence which may be adduced by the prosecution at the trial. In the present case, it may be noticed that there are specific allegations against the petitioners. Whether those can be proved at the trial or not or whether those are feeble in character or not is a matter which shall have to be adjudicated upon at the trial. There is no illegality or infirmity in the matter which could justify petitioners' request for quashment of the report under Section 173 of the Code of Criminal Procedure.

Dismissed.

(S. D. ANAND)
JUDGE

April 17, 2007
SRM